IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1449 OF 2007
IN
WRIT PETITION NO. 6752 OF 2006

Shri Pawar Anandrao Dhondiram & 7 ors.] .. Petitioner

Versus

1. State of Maharashtra & 2 ors.] .. Respondents

Mr. A.M. Joshi for the petitioners.

Mr. P.P. Kakade, AGP, for the respondents No.1 & 2.

Mr. S.A. Ghaisas for the respondent No.3.

CORAM: S.B. MHASE &
R.S. MOHITE, JJ.

DATED: 15TH JUNE, 2007

P.C. :

. Heard.

2. The petitioners were admittedly appointed after the scheme of Shikshan Sewak has been introduced by the Government of Maharashtra and having found that erroneous approval has been given, subsequently that has been withdrawn and approval as Shikshan Sewak has been granted and thereafter the pay and salary has been drawn as Shikshan Sewak. The petitioners desire that their pay and salary be drawn as regular teachers and

ultimately, if the petitioners fail in this Petition, they are ready and willing to give an undertaking that the overdrawn money would be repaid by them in instalments. On the contrary this Court, while passing order dated 13th March, 2007, has observed thus:

> "We make it clear that considering the affidavit fled by the respondent-State, the petitioners would be paid in those terms and that would be subject to the final order in this Petition. We make it clear that it would be open to the management to re-transfer the teachers to the institution from which they were transferred to the present institution."

3. We perused the Affidavit and in the Affidavit the State has made a statement that the payment will be made as Shikshan Sewak and, therefore, that payment will continue subject to the final decision of this Petition. It is further made clear by this Court in the said order that if the petitioners were drawing regular salary in a non-grantable School from where they were transferred it will be open to the Management to re-transfer these employees to the said non-grantable Schools. We also further observe that if the petitioners were getting regular salary in non-grantable schools where they were working prior to their transfer in the grantable school, it will be open to the Management to transfer them to non-grantable schools. We also make it clear that

during the pendency of this Petition, those petitioners who have completed the required service as Shikshan Sewaks and are eligible to be appointed as teacher and to the regular pay scales etc., their cases may be considered on the basis of the Government Resolutions in respect of the Shikshan Sewaks and Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, on its own merit.

4. We do not find any substance in the Civil Application and the Civil Application stands rejected.

Sd/-
[R.S. MOHITE, J.]

Sd/-
[S.B. MHASE, J.]